

1 The Honorable Thomas S. Zilly
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 SANJEEV SHARMA, and JOHN AND JANE
11 DOES 1-999, individually and on behalf of all
12 other similarly situated,

13 Plaintiffs,

14 v.

15 ZOLL MEDICAL CORPORATION,

16 Defendant.

17 No. 2:19-cv-01249

18 PLAINTIFF'S MOTION FOR
19 VOLUNTARY DISMISSAL **WITHOUT
20 PREJUDICE**

21 (Clerk's Action Required)

22 I. RELIEF REQUESTED

23 Plaintiff Sanjeev Sharma, moves the court for an order which provides the following
24 relief:

25 1. Dismisses this action voluntarily and without prejudice.

II. STATEMENT OF FACTS

This is an employment matter filed by the Plaintiff on August 9, 2019. The Defendant
has not been served, has not appeared, and has not filed an answer. There are no pending
motions. No counterclaims have been asserted in this matter.

1 Plaintiff desires to dismiss the action in order to reconsider additional / different claims
2 before proceeding. Dismissal without prejudice will neither affect plaintiffs nor a putative
3 class's claims.

4 **III. STATEMENT OF THE ISSUE**

5 The following issues are presented for resolution by the court:

6 *(1) Whether Plaintiff's action should be dismissed voluntarily under Fed. R. Civ.
7 P. 41(a)(1)(A) and Fed. R. Civ. P. 23 without prejudice*

8 **IV. EVIDENCE RELIED UPON**

9 This motion is based on the pleadings in the record.

10 **V. LEGAL AUTHORITY**

11 The motion is made pursuant to Fed. R. Civ. P. 41(a)(1)(A) and Fed. R. Civ. P. 23,
12 which provide in pertinent part:

13 Fed. R. Civ. P. 41

14 *(1) By the Plaintiff.*

15 *(A) Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any
16 applicable federal statute, the plaintiff may dismiss an action without a court order by
17 filing:

18 (i) a notice of dismissal before the opposing party serves either an answer or a
19 motion for summary judgment

20 Fed. R. Civ. P. 23 (e)

21 **Settlement, Voluntary Dismissal, or Compromise.** The claims, issues, or
22 defenses of a certified class may be . . . voluntarily dismissed . . . only with the court's
23 approval.

24 Fed. R. Civ. P. (a)(1)(A) and 23 (e). As the Defendant has not been served, appeared, served an
25 answer or brought a motion of any kind, the Court should dismiss the action without prejudice.
This would allow the plaintiff the opportunity to re-file the matter with no harm to the plaintiff
or the putative class.

1 VI. PROPOSED ORDER

2 A proposed order granting the relief requested accompanies this motion.

3 DATED this 15th day of August, 2019.

5 RESPECTFULLY SUBMITTED:

6 EMERY | REDDY, PLLC

8 By: s/ Timothy W. Emery
9 TIMOTHY W. EMERY
10 WSBA No. 34078
11 EMERY | REDDY, PLLC
12 600 Stewart Street, Suite 1100
13 Seattle, WA 98101
14 Phone: (206) 442-9106
15 Fax: (206) 441-9711
16 emeryt@emeryreddy.com
17 Attorney for Plaintiff

14 RESPECTFULLY SUBMITTED:

15 EMERY | REDDY, PLLC

17 By: s/ Patrick B. Reddy
18 PATRICK B. REDDY
19 WSBA No. 34092
20 EMERY | REDDY, PLLC
21 600 Stewart Street, Suite 1100
22 Seattle, WA 98101
23 Phone: (206) 442-9106
24 Fax: (206) 441-9711
25 reddyp@emeryreddy.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2019, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system. Service will be completed to the following non-CM/ECF participants on August 15, 2019, via U.S. mail.

Zoll Medical Corporation
c/o Mark T. Phillis
625 Liberty Avenue, 26th Floor
Pittsburgh, PA 15222

s/ Jennifer Chong
Jennifer Chong, Legal Assistant